

Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ADP-00 COME-00 JUSE-00 L-03 TRSE-00

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DRAFTED BY EB/ CBA/ BP: PBLANIUS: JB

5/4/73 EXT. 20792

APPROVED BY EB - W. C. ARMSTRONG

JUSTICE - W. L. FUGATE

EUR/ IB - J. SMITH

EUR/ RPE - R. MEIMA

----- 114822

R 042127 Z MAY 73

FM SECSTATE WASHDC

TO AMEMBASSY MADRID

INFO AMCONSUL BILBAO

USMISSION OECD PARIS

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E. O. 11652: ADS, N/ A

TAGS: ETRD, US, SP

SUBJ: PROPOSED ACQUISITION OF ELECTROCICLOS, SA

REF: A-1085

1. ON BASIS OF CAREFUL INVESTIGATION THE ANTITRUST DIVISION OF THE DEPARTMENT OF JUSTICE HAS TENTATIVELY DECIDED TO BRING SUIT UNDER SECTION 7 OF THE CLAYTON ACT TO PREVENT THE ACQUISITION OF ELECTROCICLOS S. A. EIBAR SPAIN BY EMERSON ELECTRIC CO. (IN THE REFERENCED AIRGRAM THE JUSTICE DEPARTMENT STATED THE ACQUISITION WAS TO BE BY RIDGE TOOL CO. IN FACT, RIDGE TOOL CO. WAS ACQUIRED BY EMERSON ELECTRIC CO. IN 1966 AND EMERSON IS ACTUALLY THE ACQUIRING FIRM.)

2. THE EMBASSY IS REQUESTED TO NOTIFY THE DIRECTOR DEL SERVICIO DE DEFENSA DE LA COMPETENCIA OF THIS DECISION. SUCH NOTIFICATION IS TO BE MADE IN COMPLIANCE WITH THE LIMITED OFFICIAL USE

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OCTOBER 5, 1967 OECD RECOMMENDATION OF THE COUNCIL CONCERNING CO- OPERATION BETWEEN MEMBER COUNTRIES ON RESTRICTIVE BUSINESS PRACTICES AFFECTING INTERNATIONAL TRADE.

3. WHEN THE DIRECTOR IS NOTIFIED, THE EMBASSY SHOULD POINT OUT NO FINAL ACTION WILL BE TAKEN UNTIL MAY 12. THIS DELAY PROVIDES AN INTERVAL IN WHICH THE SPANISH GOVERNMENT MAY RAISE ANY QUESTION OR CALL FOR ANY

CONSULTATIONS WITH THE UNITED STATES GOVERNMENT SHOULD IT WISH TO DO SO. FINALLY TITTY INCREASES FOR US AIRLINES DURING INTERIM PRE- BERMUDA PERIOD. WE BELIEVE THAT BEST WAY TO TURN PHILIPPINES AWAY FROM THEIR CURRENT POSTURE AND TO FOCUS ON ONLY WAY ISSUES CAN ULTIMATELY BE RESOLVED IS AS FOLLOWS:

3. REQUEST EMBASSY SEEK MEETING AT HIGHEST LEVELS TO REVIEW WHERE MATTERS STAND AND TO OFFER FOLLOWING USG VIEWS:

A. ALTHOUGH " POSITION" ADVANCED BY MELCHOR MAY NOT TECHNICALLY REQUIRE RESPONSE BY USG (SINCE IMPLICATION IS THAT ONLY US AIRLINE OR AIRLINES ARE INVOLVED IN THE IMPLICIT DEAL), USG IS INEVITABLY INVOLVED. IT REGRETS POSTURE GOP APPEARS BE TAKING SINCE THERE IS NO POSSIBILITY RESOLVING ANY OF THE ISSUES ON THIS BASIS.

B. THE THREE FACTORS INVOLVED IN THE PHILIPPINE " POSITION" (I. E. GUAM, TOKYO, AND US AIRLINE FREQUENCIES AND CAPACITY) ENCOMPASS MOST OF THE MAIN ELEMENTS OF THE NEGOTIATIONS FOR A BILATERAL AGREEMENT. THE SENSIBLE THING TO DO WOULD BE TO RECOGNIZE THIS FACT AND RESUME THE DIALOGUE TO SEE WHETHER A SATISFACTORY BASIS FOR RESUMING FORMAL NEGOTIATIONS CAN BE FOUND. USG THEREFORE INVITES GOP TO CONCENTRATE THEIR ATTENTION ON PROPOSALS MADE BY US IN FEBRUARY (STATE 29030 AND MANILA 1878) WHICH ARE STILL UNANSWERED.

C. USG IS HOWEVER CONCERNED OVER CONTINUING DELAYS AND COMPLICATIONS IN TRYING RESOLVE BASIC ISSUES IN FOREGOING MANNER. FOR A PERIOD OF 13 YEARS SINCE PHILIPPINE DENOUNCED BILATERAL AGREEMENT (IN 1959) PHILIPPINE AIRLINES HAVE ENJOYED COMPLETE FREEDOM FROM THE USG TO REVISE SCHEDULES AND INCREASE CAPACITY, WHILE US AIRLINES HAVE BEEN SUBJECTED TO FILING REQUIREMENTS, DISAPPROVAL OF APPLICATIONS, AND THE UNCERTAINTIES AND RIGIDITIES

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ASSOCIATED WITH THIS SYSTEM. NOT ONLY HAS THIS SERVED TO INHIBIT THE NORMAL GROWTH OF TRAFFIC BUT US AIRLINES,

FACED WITH NOT KNOWING WHAT MAY BE APPROVED OR HOW LONG ANY APPROVAL MAY LAST, ARE RESTRAINED FROM PROMOTING THE PHILIPPINE MARKET. BOTH PANAM AND NWA HAVE APPLIED FOR CAPACITY INCREASES WHICH APPARENTLY MAY NOT BE APPROVED. YET PAL AGAIN INCREASED CAPACITY ON ITS US SERVICES IN APRIL WITHOUT ANY OF THE FILING REQUIREMENTS AND UNCERTAINTIES THAT US LINES MUST FACE IN MANILA. THIS INEQUITABLE SITUATION INVOLVING LACK OF RECIPROCITY CANNOT CONTINUE INDEFINITELY. IF THE UNDERLYING ISSUES CANNOT SHORTLY BE RESOLVED BY BILATERAL AGREEMENT, THE USG WILL HAVE NO CHOICE BUT TO CONSIDER PLACING ITSELF IN A RECIPROCAL POSITION ON THIS QUESTION, I. E. REQUIRING PAL FILE SCHEDULES FOR APPROVAL OR DISAPPROVAL. USG NATURALLY HOPES THIS POSSIBILITY CAN BE AVOIDED BY EARLY PICAB APPROVAL US AIRLINE FILINGS (BOTH PANAM AND NWA) AND BY RESUMED EFFORTS TO FIND SATISFACTORY BASIS RESUME NEGOTIATIONS. RUSH

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